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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
GARY JAMES ROLLER,
Defendant.

No. CR 08-00361(B) RMW

**STIPULATION AND []
ORDER SETTING TRIAL DATE ON
SEPTEMBER 19, 2011, AND
EXCLUDING TIME FROM
SEPTEMBER 19, 2011 TO NOVEMBER
14, 2011, FROM CALCULATIONS
UNDER THE SPEEDY TRIAL ACT (18
U.S.C. § 3161)**

The parties hereby request that the Court enter this order setting a trial date for October 17, 2011, and excluding time from September 19, 2011 through November 14, 2011. Trial in this matter is currently scheduled for September 19, 2011. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from September 19, 2011 through November 14, 2011 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions and defenses are appropriate.

1 Defense counsel has indicated that there are additional items that he will be seeking in discovery,
2 including some computer forensic information. In addition, defense counsel will be involved in
3 a two-week rape trial beginning on September 6, 2011. Once that trial is concluded, defense
4 counsel will need additional time to prepare for trial. The parties may also hold settlement
5 discussions concerning a disposition of this case. Therefore, for effective preparation of defense
6 counsel and continuity of counsel, the parties respectfully request that the Court vacate the
7 current trial date of September 19, 2011, set November 14, 2011 as the date for trial in this
8 matter and November 3, 2011 as the date for the pretrial conference in this case.

9 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial
10 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for
11 effective preparation of the defense and continuity of defense counsel; believes the exclusion is
12 in the defendant's best interests; and further agrees that the exclusion under the Speedy Trial
13 Act, 18 U.S.C. § 3161, should be for the period from September 19, 2011 through November 14,
14 2011.

15 Given these circumstances, the parties believe, and request that the Court find, that the
16 ends of justice are served by excluding from calculations the period from September 19, 2011
17 through November 14, 2011 outweigh the best interests of the public and the defendant in a
18 speedy trial under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

19 IT IS SO STIPULATED.

20 DATED: September 1, 2011

21 /s/ Richard Pointer
22 RICHARD POINTER
Attorney for Defendant

23 DATED: August 31, 2011

24 /s/ Hanley Chew
25 HANLEY CHEW
Assistant United States Attorney
Attorney for Plaintiff

26 **[] ORDER**

27 Having considered the stipulation of the parties, the Court finds that: (1) the defendant
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1 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18
2 U.S.C. § 3161, from September 19, 2011 through November 14, 2011, based on the need for the
3 defense counsel to investigate further the facts of the present case, review the discovery that the
4 government has already provided and will provide and evaluate further possible defenses and
5 motions available to the defendant and otherwise prepare for trial; (2) the exclusion of time is
6 necessary for effective preparation of the defense and continuity of counsel and is in the
7 defendant's best interests; and (3) the ends of justice are served by excluding from Speedy Trial
8 calculations the period from September 19, 2011 through November 14, 2011.

9 Accordingly, the Court further orders that (1) trial in this case be scheduled for
10 November 14, 2011 and pretrial conference in this case be scheduled for November 3, 2011 at
11 1:30 p.m.; and (2) the time from September 19, 2011 through November 14, 2011 is excluded
12 from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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14 IT IS SO ORDERED.

15 DATED: JDF
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17 THE HONORABLE RONALD M. WHYTE
18 United States District Court Judge
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